



MAYOR AND COUNCIL AGENDA

NO. 8 DEPT.: Community Planning and Development Services / Legal DATE PREPARED: 6/27/05
STAFF CONTACT: Deane Mellander/Margaret Hall FOR MEETING OF: 7/11/05

SUBJECT: Public hearing on Zoning Text Amendment TXT2005-00216, Revisions to Accessory Structures regulations.

RECOMMENDATION: Hold public hearing.

DISCUSSION: The Mayor and Council of Rockville have determined that the current zoning regulations governing accessory structures in residential neighborhoods are inadequate. Under the current regulations, it is possible in some instances for an accessory structure to be as large, or even larger, than the main house. In an effort to help maintain the character of the existing residential neighborhoods and minimize impacts on adjoining properties, the Mayor and Council has proposed a zoning text amendment to limit the size of accessory structures and modify their required setbacks.

Accessory structures include sheds, detached garages, swimming pools, and similar types of uses. Under the current law, the floor area of all accessory structures cannot exceed ten percent of the minimum lot area allowed in the zone. Thus, if a property is in the R-60 Zone, which has a minimum lot area of 6,000 square feet, the total floor area of all accessory structures cannot exceed 600 square feet. Further, in most zones accessory structures cannot cover more than 25 percent of the rear yard area.

The first provision of the text amendment proposes to limit the size of accessory structures to a cumulative total of 600 square feet regardless of the underlying zone. This is what is currently permitted in the R-60 Zone. For comparison purposes, a typical two-car garage is about 20 by 24 feet, or about 480 square feet of floor area.

Because there are a fair number of accessory structures that exceed this proposed new limit, the text amendment proposes a form of amortization period of ten years from the date of adoption of the text amendment. Within that timeframe, any accessory structure that was legally constructed under the former regulations will be considered a conforming use, and can be modified, repaired, or replaced in accordance with the standards it was originally approved under. At the end of the ten-year period, any accessory structures that do not meet the revised standards will become nonconforming.

A nonconforming structure is one that was legal when built, but no longer complies due to changes in the code. Such structures can remain, but if they are demolished or destroyed beyond 50 percent of their value, they cannot be replaced in kind. Any replacement must meet the current standards.

requiring additional setbacks from the property line depending on the height of the building. Currently, an accessory structure can be as high as 15 feet, height being measured to the mid-point of a gable roof. Accessory structures can be located as close as three feet to the side and rear property lines. Most two-car garages can be built with a height of 12 feet. In order to minimize potential impacts to the neighboring properties, the proposed amendment would require an accessory structure that exceeds 12 feet in height to be set back from the property lines two feet for each foot of added height above 12 feet. This would mean that a maximum height accessory structure would have to be set back 9 feet from the property lines instead of 3.

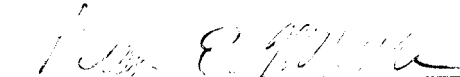
Following the public hearing, the Mayor and Council may suggest further changes to the proposed text amendment. These may include amending the building height provision, as well as the required setback standards.

Change in Law or Policy: Amends the current zoning regulations for accessory structures.

Boards and Commissions Review: The Planning Commission considered this text amendment at their meeting on June 28, 2005. The Commission unanimously voted to recommend approval of the text amendment as submitted. At the meeting, testimony from a citizen was received encouraging the installation of sprinklers in accessory structures.

Next Steps: Following the close of the hearing record, the Mayor and Council will review the testimony and direct the staff on further actions.

PREPARED BY:



Deane Mellander, Acting Chief of Planning

APPROVED BY:

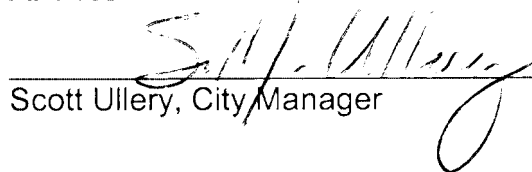


Arthur D. Chambers, AICP, Director, CPDS

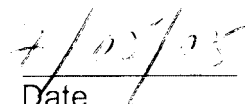


Date

APPROVED BY:



Scott Ullery, City Manager



Date

LIST OF ATTACHMENTS:

1. Proposed text amendment.
2. Planning Commission recommendation.
3. Staff report to the Planning Commission.
4. Letter to neighborhood groups with text amendment attached.

May 25, 2005

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ATTACHMENT TO APPLICATION
TO THE CITY OF ROCKVILLE FOR A
TEXT AMENDMENT TO THE ZONING ORDINANCE

Applicant: Mayor and Council of the City of Rockville

The applicant proposes to insert the following new text into the zoning ordinance
(underlining indicates text to be added; [brackets] indicate text to be deleted):

Amend Section 25-1, "Definitions" as follows:

Sec. 25-1. Definitions.

* * *

Use, accessory means a use incidental to a permitted or special exception use which
complies with the following conditions:

* * *

- (5) If operated partially or entirely in detached structures, the gross floor area of such detached accessory structures [does] must not exceed ten (10) percent of the minimum lot area for the zone in which the lot is located and may in no event exceed 600 square feet of ground coverage or cover more than 25% of the rear yard, whichever is smaller. An accessory structure in existence as of (date of adoption) that complies with the provisions of the development standards for the zone immediately prior to (date of adoption) is a conforming use for a period of ten years. Such accessory structures may be modified, repaired, or replaced so long as they conform to the previous development standards. At the end of the ten-year period, any accessory structure that does not conform to the provisions herein is nonconforming and subject to the provisions of Article IV of this Chapter.

* * *

Amend Section 25-311, "Tables of development standards" as follows:

Sec. 25-311. Tables of development standards.

* * *

| Accessory Buildings | | | | | | | |
|--------------------------------|--|----------------------|---------------|------|---------------------------|-----------------------|--------------------|
| Minimum Setback Requirements | | | | | | | |
| | Front | Side | | Rear | Rear Yard Coverage (9) | Maximum Height | |
| | | Side Street Abutting | Land Abutting | | | Not more than stories | Not To Exceed (10) |
| R-E | All accessory buildings must be located in the rear yard as defined herein | 30' | 3' | 3' | 15% | 1 | 15' |
| R-S | | 25' | 3' | 3' | 25% | 1 | 15' |
| R-150 | | 30' | 3' | 3' | 15% | 1 | 15' |
| R-90 | | 20' | 3' | 3' | 25% | 1 | 15' |
| R-75 | | 20' | 3' | 3' | 25% | 1 | 15' |
| R-60 | | 20' | 3' | 3' | 25% | 1 | 15' |
| (4) | | 20' | 3' | 3' | 25% | 1 | 15' |
| R-60 Qualifying Undersize Lots | | | | | | | |
| R-40 | | 25' | 3' | 3' | 25% | 1 | 15' |
| R-40 Detached Dwelling Unit | | 20' | 3' | 3' | 25% | 1 | 15' |

⁹Not to exceed 600 square feet of ground coverage or 25% of the rear yard, whichever is smaller.

¹⁰Structures that exceed 12 feet in height must be set back two feet for each additional foot of building height up to the maximum allowable height of 15 feet.



City of Rockville

MEMORANDUM

June 29, 2005

TO: Mayor and Council

FROM: Planning Commission

SUBJECT: Planning Commission Recommendation on Text Amendment Application
TXT2005 - 00216; Revisions to the regulations for accessory structures .

The Planning Commission considered Text Amendment Application TXT2005-00216 at its meeting on Tuesday, June 28, 2005. The Commission received a report from the planning staff, and comments from citizens. One citizen requested the City to consider requiring sprinklers in accessory structures. Staff noted that this was a building code issue, and not directly related to the zoning standards.

The Commission concurs with the recommendations contained in the staff report. Therefore, on motion of Commissioner Holtz, seconded by Commissioner Wiener, the Commission voted to recommend approval to the Mayor and Council of Text Amendment Application TXT2005-00216. The motion passed on a vote of 5-0 with two absent.

cc: Planning Commission
Case File

**CITY OF ROCKVILLE PLANNING DIVISION
STAFF REPORT**

June 23, 2005

SUBJECT:

Text Amendment Application TXT2005-00216

Applicant: Mayor and Council of Rockville
111 Maryland Avenue
Rockville, Maryland 20850

Planning Commission Review Date: June 28, 2005
Mayor and Council Public Hearing: July 11, 2005

REQUEST:

This application is for a Zoning Text Amendment that is intended to change the size and setback standards for accessory buildings in single-family detached residential zones.

BACKGROUND:

Recent building permit applications have revealed a trend for larger accessory buildings. Some applications have included accessory buildings footprints that are nearly as large as the footprint of the house. Since accessory buildings are meant to be subordinate to the main dwelling, this Text Amendment proposal is meant to reduce the size of a permitted accessory structure to a size that is compatible with the existing houses and neighborhoods.

DISCUSSION:

The proposed Text Amendment would limit the maximum size of an accessory building to six hundred square feet in all single-family detached residential zones. It further proposes to retain the existing maximum height of fifteen feet but proposes new setbacks regulations for structures over twelve feet in height.

Current Requirements

Accessory buildings within residential zones are currently limited to one story, fifteen feet in height and may not cover more than ten percent of the area of the smallest lot allowed in the zone. As a result, the largest accessory building allowed in the R-40 is 400 square feet, 600 square feet in the R-60 Zone, 750 square feet in the R-75 Zone, 900 square feet in the R-90 Zone, 1,500 square feet in the R-150 Zone, 2,000 square feet in the R-S Zone and 4,000 square feet in the R-E Zone. The size is further restricted by a rear yard coverage limitation of twenty-five percent in the R-40, R-60, R-75, R-90 and R-S Zones and fifteen percent in the R-150 and R-E Zones.

Assessment

The aerial photos of the City were referenced in an effort to determine if there was any pattern or high concentrations of accessory buildings and what sizes appeared to be common. The Twinbrook and East Rockville neighborhoods have the highest concentration of accessory buildings, in a variety of sizes. Except for the Rose Hill, Rose Hill Falls, King Farm and Falls Grove, the developments that took place from around 1965 to the present have very few accessory buildings and most are modestly sized.

Prior to modern subdivision development, properties were larger and homes had a cellar or basement and often had outbuildings. Post World War II development in the area led to the "cookie cutter" type of subdivisions that were quickly erected to serve returning veterans and provide housing for governmental agencies in the Washington area. The homes were often erected on concrete slabs or crawl spaces and did not contain an outbuilding of any type. As time passed, the later generation of houses often included a basement and/or a carport. Later development almost always included a basement and an attached carport or garage.

If the Twinbrook, Twinbrook Forest and Hungerford similarly styled houses are compared, the need for an accessory building becomes clear based on whether the house has a basement or a carport. In the Twinbrook development there are few houses with basements and few with carports but many accessory buildings in a variety of sizes. In the Twinbrook Forest subdivision, there are some basements with most of the properties containing carports but fewer and smaller accessory buildings. In the Hungerford development, most of the houses have basements and garages and there are few and smaller yet accessory buildings. It is therefore clear that the need for an accessory building is tied to the need for vehicle coverage and storage even if you just compare older neighborhoods to newer ones.

Recommendation

It is recommended that the maximum size of an accessory building be limited to four hundred square feet in the R-40 Zone and six hundred square feet in all other single-family residential zones. Since most families own two cars and because there is always a need for storage space, six hundred square feet seems to be a reasonable limitation on the size of an accessory structure. This is based on the idea that most two-car garages measure twenty feet wide by twenty-four feet deep, for a total of four hundred eighty square feet. If six feet were added onto the depth of the structure for work or storage space, for the full width, it would bring the total square feet of the building to six hundred.

Approximately eighteen years ago, the size limitations for accessory buildings was looked at and the Zoning Ordinance was changed to reduce the accessory building size to ten percent of the smallest lot allowed in the zone rather than ten percent of overall individual lot. Because so few large accessory buildings exist in the R-75, R-90, R-150, R-S and R-E Zones, it is not anticipated that allowing the maximum accessory building to be six hundred square feet will make any additional existing accessory structures nonconforming.



The one thing that may make additional structures nonconforming is that proposed limitation that any accessory building that exceeds twelve feet in height would have to be setback an additional two feet for every foot it exceeds twelve feet up to a setback of ten feet for accessory buildings reaching the maximum height of fifteen feet. Because accessory structures are deemed uninhabitable they have traditionally been allowed to come to within three feet of the side or rear property line and required to be placed in the rear yard, which is behind the rear wall of the house or any projection from the house, such as an eave, porch or deck. The three-foot setback allows for maintenance around the structure. Increasing the setback for taller structures will provide for a greater separation between the property line and the higher massing of the taller structure. It is not clear how many structures would be made nonconforming by increasing the setback. For the last ten or eleven years, the City has had a computer program in place for permit issuance. Within the program, data is entered that indicates the setbacks proposed. Prior to that time, there is no easy way to assemble the data.

Staff, therefore, recommends approval of the reduced maximum size for accessory buildings as well as the increased setbacks for accessory buildings that exceed twelve feet in height.

NOTIFICATION:

A letter was sent to all of the civic associations and homeowners association notifying them of the proposed Text Amendment. A copy of the Text Amendment was included with the letter.

June 6, 2005

City of Rockville
111 Maryland Avenue
Rockville, Maryland
20850-2364
www.rockvillemd.gov

Subject: Zoning Ordinance Text Amendment TXT2005-00216, Amendments to Accessory Structure Regulations

Friends:

Community Planning and
Development Services
240 314-8200
TTY 240 314 8137
FAX 240 314 8210

Historic Preservation Office
240 314 8230

Inspection Services Division
240 314-8240

Long Range Planning
Division
240-314-8200

Planning Division
240 314 8220

Revitalization/Housing
Division
240 314-8200

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Attached is a copy of the proposed text amendment. The first provision proposes to limit the size of accessory structures to a cumulative total of 600 square feet regardless of the underlying zone. This is what is currently permitted in the R-60 Zone. For comparison purposes, a typical two-car garage is about 20 by 24 feet, or about 480 square feet of floor area.

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MAYOR
Larry Giammo

COUNCIL
Robert E. Dorsey
John F. Hall, Jr.
Susan R. Heffmann
Anne M. Robbins

CITY MANAGER
Scott Ulery

CITY CLERK
Claire F. Funkhouser

CITY ATTORNEY
Paul T. Glasgow

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In addition to regulating the floor area of the accessory structure, the text amendment also proposes require additional setbacks from the property line depending on the height of the building. Currently, an accessory structure can be as high as 15 feet, height being measured to the mid-point of a gable roof. Accessory structures can be located as close as three feet to the side and rear property lines. Most two-car garages can be built with a height of 12 feet. In order to minimize potential impacts to the neighboring properties, the proposed amendment would require an accessory structure that exceeds 12 feet in height to be set back from the property lines two feet for each foot of added height above 12 feet. This would mean that a maximum height accessory structure would have to be set back 9 feet from the property lines instead of 3.

The Mayor and Council have scheduled a public hearing on this proposed text amendment for July 11, 2005 at 7:00 p.m. in the Mayor and Council chambers in City Hall. The address is 111 Maryland Avenue. Prior to the public hearing, the City's Planning Commission will review the text amendment and provide recommendations to the Mayor and Council for the public hearing record. The Planning Commission meeting will be held on June 22, 2005, also at 7:00 p.m. in the Mayor and Council chambers. Comments on the text amendment can be submitted via mail, e-mail, or by appearing at either the Planning Commission meeting or the public hearing.

If you have questions regarding the public hearing procedures, please contact the City Clerk's office at 240-314-8280. If you have questions regarding the language of the text amendment, please contact Deane Mellander in the Community Planning and Development Services office at 240-314-8224.

Sincerely,



Deane E. Mellander
Acting Chief of Planning

CC: City Clerk
Scott Ullery, City Manager
Catherine Tuck Parrish, Assistant City Manager
Sondra Block, Assistant City Attorney
Linda MacDermid, Chief of Inspection Services
Planning Commission